

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
JOSEPH S. OSTAPOW and EMILY OSTAPOW,

Plaintiffs,

07 CV 3297
Judge Batts

-against-

ROBERT T. KOPLAR,

Defendant.
-----X

AMENDED ANSWER AND AFFIRMATIVE DEFENSES AND COUNTERCLAIM

Defendant, by his attorneys Katz & Kreinces, LLP files this Amended Answer to the Complaint of JOSEPH S. OSTAPOW and EMILY OSTAPOW stating:

ANSWER

Defendant responds as follows, below, to the various paragraphs of the complaint, with the numbers of the responses corresponding to the numbers of the complaint, to wit:

1. a - Denies knowledge and information as to domicile of Plaintiffs. Admits being resident of Florida.

b - Admits diversity of citizenship.

2. Denies knowledge and information sufficient to form a belief.

3. Admits.

4. Admits.

5. Denies.

6. Denies.

7. Denies.

7. Denies.

There being no paragraphs of Plaintiff's complaint numbered 8, 9, 10, or 11, no response is offered.

12. Denies.

AFFIRMATIVE DEFENSES TO COMPLAINT

Defendant's affirmative defenses are set forth below:

13. Any transactions between Plaintiffs and Defendant took place in excess of six years prior to the commencement of this action and are barred by the applicable Statute of Limitations.

14. Plaintiffs' complaint fails to state a cause of action.

15. That any monies provided by Plaintiffs to Defendant and his then wife, Patricia Koplar were given as gifts, induced by love and affection, and were not intended to be repaid.

16. Any amounts intended as loans were either repaid or forgiven.

17. This action has been commenced in an improper venue, Plaintiffs having alleged that Plaintiffs are residents of Westbury, New York in the Eastern District of New York and Defendant is a resident of Florida.

COUNTERCLAIM

Defendant files this counterclaim against Plaintiffs:

18. That this action, instituted by the Plaintiffs former mother-in-law and father-in-law of Defendant, after a period of matrimonial discord and divorce between their daughter and Defendant is motivated by malice and ill will and lacks factual merit.

19. That by reason of the above, Defendant reserves the right to seek appropriate sanctions, penalties and counsel fees pursuant to Rule 11 of the Fed. Rules of Civil Procedure

and any and all other appropriate authority.

Dated: May 30, 2007
Mineola, NY

/s/ _____
Lawrence K. Katz, Esq.(6791)
Katz & Kreinces, LLP
Attorneys for Defendant
170 Old Country Road, Suite 316
Mineola, NY 11501
(516) 741-1710

TO:

SABLE & GOLD, ESQS.
Attorneys for Plaintiffs
450 Seventh Avenue, Suite 1608
New York, NY 10123
(212)244-2740

CERTIFICATE OF SERVICE

I, LAWRENCE K. KATZ, hereby certify that on the 30th day of May, 2007, I caused the foregoing Amended Answer to Plaintiff's Complaint to be filed and served via the Court's ECF system upon the following counsel.

SABLE & GOLD, ESQS.
Attorneys for Plaintiffs
450 Seventh Avenue, Suite 1608
New York, NY 10123
(212)244-2740

/s/ _____
Lawrence K. Katz (6791)